

Remarks

The § 103 (a) Rejections of Claims 1-25

The Examiner rejected Claims 1-16 and 19-23 under 35 U.S.C. § 103 (a) as obvious over U.S. Patent No. 4,548,249 to Slaughterbeck ("Slaughterbeck" or the '249 patent") in view of U.S. Patent No. 6,525,238 to Corrales ("Corrales" or "the '238 patent"). Applicant has amended Claim 1 by including the claim limitation of a flange originally claimed in Claim 3 and has amended Claim 19 by adding the claim limitations of Claim 21. Applicant has cancelled Claim 21 thereby rendering the rejections of that claim moot. Applicant respectfully traverses the rejections of pending Claims 1-16, 19, 20, and 22-25 and requests reconsideration.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Applicant respectfully submits that the '249 and '238 patents fail to establish a *prima facie* case to render either independent Claim 1 or independent Claim 19 obvious. First, the combined '249 and '238 patents must separately or together teach all the limitations both claims. Applicant courteously notes that neither the '249 patent nor the '239 patent discloses a zip loc device supported by or integral with a flange. Applicant points to Figures 4 and 9 (Reference No. 51) of the instant application to show both the male and female components of the zip loc closure supported on flanges 51 which are each a separate component from the walls or sides of the enclosure. The Examiner states that Slaughterbeck discloses zip loc fastener 40 and 42. However, examination of Figures 2 and 5 of Slaughterbeck show that the zip loc fastener disclosed in Slaughterbeck is integral with or incorporated in the sides 44 and 58. Nowhere does the '249 patent teach or

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suggest the use of separate flange structures that each support the respective male and female portions of the zip loc fastener and are separately attached to and not integral with the sides the enclosure. In addition, while the '238 patent teaches a bag having a polyolefin layer of 2-10 mils, as noted by the Examiner, it fails to suggest any reusable fastener at all, let alone a zip loc closure mounted on a flange. Therefore, for this first reason, the combined '249 and '238 patents fail to establish a *prima facie* case of obviousness as they fail to disclose all the limitations of the amended claims.

Moreover, to establish a *prima facie* case of obviousness, there must be some suggestion to combine the two cited references. Applicant respectfully submits that there is no suggestion to combine the '249 and '238 patents to render amended Claims 1 and 19 obvious. First, as noted above, neither reference discloses the use of a separate flange to support either one or the both of the female and male components of the zip loc fastener. Second, the '238 patent discloses a disposable bag while the instant application discloses a reusable bag. (See the '238 patent col. 3 line 28-37 describing the invention is a "disposable protective wrap" and col. 4, line 50-51 describing the fastener as nonreusable.) Also, as noted above, Applicant respectfully submits while Corrales discloses a bag having a thickness of 2-10 mils, amended Claims 1 and 19 claim an enclosure in which the fastener and pouch sidewalls together have a thickness of 2-12 mils. Because Slaughterbeck does not mention a flange and Corrales does not mention a flexible fastener, let alone a flange, there can be no motivation to combine those two references to obtain Applicant's claimed invention that includes a flange. Consequently, Applicant respectfully submits that the combined '249 and '238 patents fail to establish a *prima facie* case of obviousness as there is no suggestion to combine them to render obvious Claims 1 and 19.

Moreover, Applicant respectfully submits that the use of flanges within the claimed thickness range provides unexpected benefits in that it prevents the curling and opening of the enclosure that otherwise occurs when the enclosure is wrapped around a limb. Applicant points to paragraph 0028 in the instant specification noting that "The inventor discovered flexible fastener[s] comprising thick flanges have a tendency to 'curl' and open when the enclosure is wrapped about a patient's arm and further found that the problem of curling can be rectified by

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employing flanges that are sufficiently thin that the flexible fastener does not have a propensity to curl when the enclosure is closed.” Applicant has found that a thickness of 2-12 mils or more preferably 4-8 mils will eliminate curling.

This problem is not addressed in either Slaughterbeck or Corrales. Slaughterbeck discloses a “zip loc” type closure that is integral with the sides of the outer enclosure but does not address or solve the problem of zip loc closures opening when the outer enclosure is wrapped around a patient’s arm. Certainly, Slaughterbeck does not disclose Applicant’s inventive step of supporting the zip loc closure components on a flange that is not integral with the side wall of the enclosure (pouch). Corrales discloses only a disposable bag with a closure specifically designed to be used only once. None of the Corrales embodiments disclose a zip loc closure that does not open upon wrapping around a patient’s arm. Therefore, for this additional reason, a person of ordinary skill in the art would not be motivated to combine the Slaughterbeck and Corrales patents as neither patent addresses the problem solved by inventor’s claimed invention. For this additional reason, Applicant respectfully traverses the rejections of Claims 1 and 19 and requests withdrawal of those rejections and passage to allowance of those claims.

“If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious.” *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Claims 2-16 depend either directly or indirectly from Claim 1, while Claims 20 and 22-25 depend from Claim 19. Thus they incorporate all the limitations of their respective base claims. Because, as discussed above, the combined Slaughterbeck and Corrales patents fail to render obvious Claims 1 and 19, they also fail to render obvious Claims 2-16, 20 and 22-25. Applicant respectfully requests the removal of the rejections of Claims 2-16, 20 and 22-25 and passage to allowance of those claims.

The Examiner rejected Claims 17, 18, 24, and 25 under 35 U.S.C. § 103 (a) as obvious over Slaughterbeck in view of Corrales as applied to Claims 1-16 and 19-23 and further in view of U.S. Patent No. 5,904,655 to Brackett (“Brackett” or “the Brackett patent”). Claims 17 and 18 depend directly or indirectly from Claim 1 and Claims 24 and 25 depend indirectly or indirectly

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from Claim 19 and incorporate all the limitations of those claims. Applicant respectfully traverses these rejections and requests reconsideration.

Claims 17, 18, 24, and 25 incorporate the limitations of their respective base claims and thus claim a blood pressure cuff with an enclosure having a flexible fastener mounted on a flange separate from the pouch wall. As noted above, both the Slaughterbeck and Corrales patents fails to both disclose this claim limitation and provide any motivation to combine those references in order to render Claims 1 and 19 obvious. Similarly, the Brackett patent fails to disclose the limitation of a flexible fastener mounted on a separate flange. Brackett fails to disclose any type of seal that extends along the length of the disclosed cover, let alone a flexible seal mounted on a flange extending along that length. As such, the Brackett patent fails to disclose the invention claimed in Claims 1 and 19 which both include a flexible fastener mounted on separate flanges as a claim limitation. For this reason, Brackett, either separately or in combination with Slaughterbeck and Corrales, fails as a reference under § 103 (a) as it fails either alone or with Slaughterbeck and Corrales, to disclose or suggest all the claim limitations of Claims 17, 18, 24, and 25. Also, again like Slaughterbeck and Corrales, Brackett fails to provide the motivation to combine with those two references that is required to render Claims 17, 18, 24 and 25 obvious. Applicant respectfully requests reconsideration and passage to allowance of those claims.

Applicant respectfully submits that the present application is now in condition for allowance, which action is courteously requested. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

C Richard Zinner

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